

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

**IN RE:**

**BRADLEY C. SMITH, AKA BRADLEY  
COY SMITH, DBA BRADLEY SMITH,**

**DEBTOR**

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**CASE NO. 21-90242-JS**

**CHAPTER 13**

**OBJECTION OF BANK OF AMERICA, N.A.,  
TO DEBTOR'S CHAPTER 13 PLAN**

TO THE HONORABLE U. S. BANKRUPTCY JUDGE:

Comes now Bank of America, N.A. ("Bank of America"), a secured creditor in the above-referenced bankruptcy case, and files its *Objection to Debtor's Chapter 13 Plan*, and in support thereof would show the following:

1. Bank of America is a secured creditor of Debtor with respect to that one certain vehicle described as a 2016 Cadillac Escalade, VIN 1GYS4KKJ7GR385846 (the "Vehicle").

2. Debtor Bradley Coy Smith purchased the Vehicle pursuant to a Motor Vehicle Retail Installment Sales Contract Simple Finance Charge ("Contract") in the original loan amount of \$97,624.83 dated November 25, 2016. A true and correct copy of the Contract is attached hereto as Exhibit "A" and incorporated herein by reference for all purposes. Bank of America is the holder of this Contract.

3. Bank of America's superior security interest is properly recorded on a Texas Certificate of Title. A true and correct copy of the Texas Certificate of Title is attached hereto as Exhibit "B." Bank of America is unaware of any other liens that exist on the Vehicle.

4. As of the filing of the petition, the total amount owed to Bank of America under the Contract was approximately \$33,498.25 with \$3,372.19 arrears. A Proof of Claim was filed on January 7, 2022. The Debtor lists the Vehicle on Schedule E/F Creditors Who Have Unsecured Claims on page 3, with a \$1,000 total claim amount. The Debtor also lists the Vehicle on page 7 of his Statement of Financial Affairs as being traded to Texas Auto (financed by Americredit Fin Svc) to get a lower note. A true and

correct copy of page 3 of Schedule E/F and page 7 of the Statement of Financial Affairs are attached hereto as Exhibit "C."

5. Bank of America is not listed as a secured creditor on Schedule D. In addition, the Chapter 13 Plan does not include the treatment of Bank of America's secured claim. Therefore, the Plan cannot be confirmed because it does not comply with 11 U.S.C. § 1325 (a) (3) (4) and (5). The Debtor should be required to either treat the Collateral under their chapter 13 plan or surrender it under 11 U.S.C. § 1325(C).

WHEREFORE, BANA requests that the confirmation of the plan be denied because the Chapter 13 Plan violates 11 USC 1325(a), and for such other and further relief to which BANA may be entitled.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

By: /s/ Paul Kim  
Paul Kim  
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ATTORNEYS FOR BANK OF AMERICA, N.A.

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on January 12, 2022 a true and correct copy of the foregoing document was served upon the following parties via electronic means as listed on the Court's ECF noticing system or by regular first class mail, postage prepaid.

BRADLEY C. SMITH  
12526 N FM 95  
NACOGDOCHES, TX 75961  
DEBTOR

LLOYD KRAUS  
PLAZA TOWER  
110 N. COLLEGE AVE., 12<sup>TH</sup> FLOOR  
TYLER, TX 75702  
TRUSTEE

SYNCHRONY BANK  
C/O PRA RECEIVABLES  
MANAGEMENT, LLC  
P.O. BOX 41021  
NORFOLK, VA 23541  
PARTY REQUESTING NOTICE

NACOGDOCHES COUNTY, ET AL  
C/O MEME L. THOMAS  
PERDUE BRANDON FIELDER  
COLLINS & MOTT, LLP  
P.O. BOX 2007  
TYLER, TX 75710-2007  
PARTY REQUESTING NOTICE

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ATTORNEY FOR DEBTOR

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OFFICE OF THE U.S. TRUSTEE  
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FORD MOTOR CREDIT COMPANY, LLC  
C/O GEORGE F. DUNN  
DEVLIN, NAYLOR & TURBYFILL, P.L.L.C.  
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HOUSTON, TEXAS 77056-1725

/s/ Paul Kim

Paul Kim